



UNITED STATES PATENT AND TRADEMARK OFFICE

147
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,348	05/09/2001	Lutz Richter	A-2829	4692

24131 7590 01/07/2005

LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER

WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
----------	--------------

3721

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/852,348

Applicant(s)

RICHTER ET AL.

Examiner

Gloria R Weeks

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

fw

DETAILED ACTION

1. This action is in response to Applicants' response received on November 18, 2004.
2. The declaration filed on November 18, 2004 under 37 CFR 1.131 is sufficient to overcome the Raffoni (USPN 6,164,512) reference.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 12, 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boss et al. (USPN 6,142,353) in view of Raffoni (USPN 6,220,494).

In reference to claims 6, 12, 20-23, Boss et al. discloses a gathering stapler comprising: a plurality of cooperating subassemblies including an operatively revolving endless chain (6) having a conveying strand running in a conveying direction (63) at a certain speed and conveying gathered folded sheets (11); a stapling carriage (15) attached to the conveying strand (via 29) and operatively oscillating in parallel with the conveying strand for running in synchronicity with the conveying strand in the conveying direction with certain time segments (column 3, lines 15-21); stapling heads (16) mounted to the stapling carriage (15) and adapted for ejecting staples; a stapling displacement (column 4, lines 31-37) configuration adapted for activating the stapling heads for ejecting staples; a delivery (10); an ejector (column 3, lines 9-

Art Unit: 3721

14); and a plurality of subassembly drives (12, 14, 39). Boss et al. does not disclose a motor for separately controlling at least some of the subassemblies.

Raffoni teaches a fastening device comprising a plurality of subassemblies including: a delivery conveyor (2); a guide rail (13); a stapling carriage (25, 26); stapling head and displacement configuration (31, 38) mounted to the stapling carriage (25, 26); an ejector (conveyor downstream of 2); the subassemblies running in continuous operation (cycle); and a plurality of subassembly drives (17, 28, 37, 35, 39) managed by a central control device (control box adjacent delivery conveyor, wherein the drives for the subassemblies are motors such that the stapling heads and displacement configurations (31, 38) are controlled by a motor (35, 39) and the stapling carriages (25, 26) are controlled by a motor (28, 37). It would have been obvious to one having ordinary skill in the art to modify the single drive system of Boss et al. to include the multiple drive system of Raffoni for the purpose of offering the capability of individual adjustment (Raffoni-column 7, lines 60-64).

Although Raffoni does not specifically disclose the use of a motor to actuate the conveyor (111), it would have been obvious to one having ordinary skill in the art at the time the invention was made to actuate the conveyor using a motor since Examiner takes Official Notice that the use of motors to power an endless conveyor was well known for the purpose of automation.

4. Claims 8, 10, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boss et al. (USPN 6,142,353) in view of Raffoni (USPN 6,220,494) as applied to claim 20 above, and further in view of Dunn (5,816,467).

Art Unit: 3721

Regarding claims 8, 10 and 11, Boss et al. in view of Raffoni discloses a stapling apparatus having subassemblies controlled by individual motors, the control means for the motors being a central control device. However, the control device is not specifically disclosed as being a programmable computer. Dunn teaches a stapling apparatus comprising a delivery conveyor (111) having an independent drive system, which is synchronized with the drive system of a stapling carriage (116) and a stapling displacement configuration (117), the drive systems being centrally controlled by a programmable computer (121; column 3 lines 16-39). It would have been obvious to one having ordinary skills in the art at the time of the invention to replace the control device of Boss et al. in view of Raffoni with the programmable computer of Dunn for the purpose of eliminating manual operation of the stapling device in response to required adjustments to the subassemblies of the stapling apparatus (Dunn-column 2 lines 10-23).

In reference to claim 14, Boss et al. in view of Raffoni and Dunn discloses a gathering stapler controlled by a computer, but does not disclose the external composition of the computer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a computer having a display device since Examiner takes Official Notice that programmable computers are known to include a display device and an operating panel.

6. Claims 21, 22, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boss et al. (USPN 6,142,353) in view of Dunn (5,816,467).

With respect to claims 21, 22, 24 and 25, Boss et al. discloses a gathering stapler apparatus having a single drive system divided in to a first and second sub-drive assembly. Dunn teaches a stapling apparatus comprising an endless delivery conveyor (111) having a drive

Art Unit: 3721

system separate from the drive system of a stapling carriage (116) and stapling displacement configuration (117), wherein the conveyor (111) is driven without interruption, while the stapling carriage (116) and stapling head (117) are capable of adjustment in paths parallel to the travel path of the conveyor (111; column 3 lines 25-40). The adjustments of the stapling carriage (116) and stapling head (117) are made in response to a conveyor speed sensor (122). Although Dunn does not specifically disclose the use of motors to actuate the independent drive systems of the conveyor (111), stapling carriage (116) and stapling head (117), it would have been obvious to one having ordinary skill in the art at the time the invention was made to actuate the drive systems using a motor since Examiner takes Official Notice that the use of motors to power an endless conveyor and robotic structure (stapling carriage and stapling head) was well known for the purpose of automation.

Conclusion

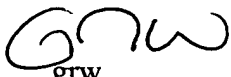
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott A Smith can be reached on (571) 272-4469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721


grw
January 5, 2005


SCOTT A. SMITH
PRIMARY EXAMINER